

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 05-0024
Sales and Use Tax
For The Tax Period 2001-2003

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ISSUES

I. Sales and Use Tax - Imposition

Authority: IC 6-2.5-3-2, IC 6-2.5-5-17, LOF # 04980304.

The taxpayer protests the imposition of use tax on certain magazine subscriptions.

STATEMENT OF FACTS

The taxpayer is an electric utility cooperative organized as a beneficial society under 501 (c)(2) of the Internal Revenue Code. Each month the taxpayer purchases a publication and distributes it to each of its members. After an audit, the Indiana Department of Revenue (department) assessed additional use tax on the taxpayer's use of the publication. The taxpayer protested the assessment of use tax. A hearing was held and this Letter of Findings results.

1. Sales and Use Tax -Imposition

DISCUSSION

Indiana imposes the use tax on "the storage, use, or consumption of tangible personal property in Indiana, if the property was acquired in a retail transaction." IC 6-2.5-3-2. The taxpayer purchases a publication and distributes it to its members. This use is generally subject to the use tax. The taxpayer contends, however, that the publication is a newspaper and therefore qualifies for exemption from this tax pursuant to IC 6-2.5-5-17.

In a previous audit of this taxpayer for the tax period 1995-1997, the department assessed use tax on the taxpayer's use of the same publication that it purchased and distributed to its members. The taxpayer also protested that assessment. A hearing was held on the protest and Letter of Findings #04-980304 was issued on May 12, 2000. That Letter of

Findings held that the taxpayer owed the use tax on its use of the publication after that date. The taxpayer owes the use tax on its use of the publication for the tax period 2001-2003.

FINDING

The taxpayer's protest is denied.

KMA/JMM/JMS/05/17/03